

# Progress Report on the Recommended Sentencing

February 4, 2009

The report provides a progress report on the steps the Department of Corrections is taking to implement the Sentencing Assessment Report (SAR) and a statistical analysis of the recommended sentences. The report includes a compliance analysis based upon the sentencing disposition of 14,110 completed SARs.

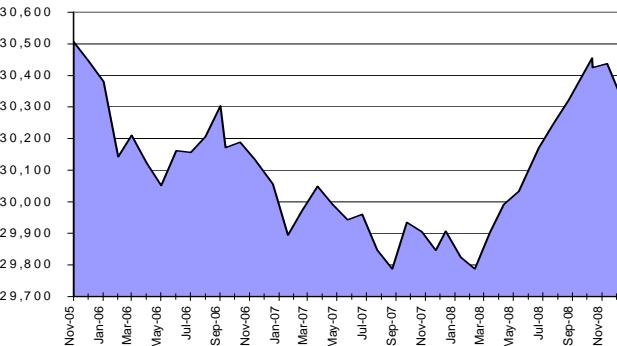
## 1. Impact on the Prison Population

The prison population in the first seven months of FY 2009 has increased at a rate of 1.34 per day. In January 2009 the population declined by 116 the first significant decline since March 2008. In FY2008 the population was up slightly (0.25 per day) with FY2007 (-0.60 per day) down slightly and FY2006 (0.04 per day) up slightly.

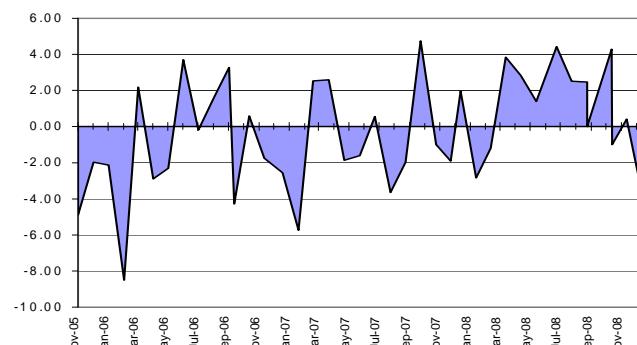
**Institutional Population Growth in July 2005 to January 2009  
SAR introduced November 2005**

	Population	Change	Rate Per Day	Cum. From Oct. 2005
Jul-05	30,359			
Aug-05	30,416	57	1.84	
Sep-05	30,531	115	3.83	
Oct-05	30,654	123	3.97	
<b>Nov-05</b>	<b>30,507</b>	<b>-147</b>	<b>-4.90</b>	<b>-4.90</b>
Dec-05	30,446	-61	-1.97	-3.41
Jan-06	30,380	-66	-2.13	-2.98
Feb-06	30,142	-238	-8.50	-4.27
Mar-06	30,210	68	2.19	-2.94
Apr-06	30,123	-87	-2.90	-2.93
May-06	30,051	-72	-2.32	-2.84
Jun-06	30,162	111	3.70	-2.03
Jul-06	30,156	-6	-0.19	-1.82
Aug-06	30,206	50	1.61	-1.47
Sep-06	30,304	98	3.27	-1.05
Oct-06	30,171	-133	-4.29	-1.32
Nov-06	30,189	18	0.60	-1.18
Dec-06	30,135	-54	-1.74	-1.22
Jan-07	30,056	-79	-2.55	-1.31
Feb-07	29,895	-161	-5.75	-1.56
Mar-07	29,971	76	2.53	-1.33
Apr-07	30,049	78	2.60	-1.11
May-07	29,991	-58	-1.87	-1.15
Jun-07	29,943	-48	-1.60	-1.17
Jul-07	29,960	17	0.55	-1.09
Aug-07	29,847	-113	-3.65	-1.21
Sep-07	29,788	-59	-1.97	-1.24
Oct-07	29,935	147	4.74	-0.99
Nov-07	29,905	-30	-1.00	-0.99
Dec-07	29,846	-59	-1.90	-1.02
Jan-08	29,907	61	1.97	-0.91
Feb-08	29,825	-82	-2.83	-0.98
Mar-08	29,788	-37	-1.19	-0.98
Apr-08	29,903	115	3.83	-0.82
May-08	29,991	88	2.84	-0.70
Jun-08	30,033	42	1.40	-0.64
Jul-08	30,170	137	4.42	-0.48
Aug-08	30,248	78	2.52	-0.39
Sep-08	30,322	74	2.47	-0.31
Sep-08	30,322	0	0.00	-0.30
Oct-08	30,455	133	4.29	-0.18
Nov-08	30,425	-30	-1.00	-0.20
Dec-08	30,438	13	0.42	-0.18
Jan-09	30,322	-116	-3.74	-0.27

**Institutional Population**



**Monthly Rate-per-day**



As of the end of December, although total admissions in FY09 to date are similar to FY08, new term admissions in FY09 to date have increased by 6.1% mainly because of the increase in new court commitments (up 7.0%). Probation revocations are down 5.6%. 120-day admissions are down in numbers and as a percent of new admissions (35%) compared to FY08 (38%). The main indicator of future population growth is new term admissions. The institutional population remains 332 below the October 31 2005 population (30,654).

## 2. Statewide Implementation

The Sentencing Assessment Report (SAR) for pre-sentence investigations went statewide on November 1, 2005. To January 23, 2009 there have been 21,135 SARs requested, 20,598 SARs completed, and 13,994 have been received by the DOC with the sentenced offender. The average time to complete the SAR is 37 days compared to 42 days for the PSI format.

### **Pre-Sentence Investigations requested since Implementation - January 1, 2005 to January 23, 2009**

PSI		SAR		
Requests	Completion Time Days	Requests	Completion Time Days	Completed and Sentenced
4,736	42	21,135	37	13,994
(LS57)				

## 3. Who are requesting investigations?

In 2008 there was an 8.0% decrease in sentencing assessments. Although SARs for Felony C and D offenses decreased by 11.4%, SARs for felony A, B and unclassified offenses increased by 2.2%.

The decline in sentencing assessments last year was in part attributed to a 4% decline in court commitments but this fiscal year new court commitments have increased by 7.0%. Increase in new felony sentences for metro areas in CY08 compared to CY07 have seen Jackson County up 7.0% and St. Louis City up 19.6% with increases in SAR requests while St. Louis County, only up 2.9 % in new felony sentences, saw a 3.4% decrease in SAR requests.

Additionally there has been a small decline in the percentage of new sentences for which the courts request a sentencing assessment (from 23.5% in CY07 down to 21.3% in CY08).

### **Sentencing Assessment Requests: 2005-2008 (as of December 31)**

#### **All Offenses**

Circuits	PSI/SAR Requests				Percent change from previous year			
	2005	2006	2007	2008	2005	2006	2007	2008
Jackson County	291	354	349	433	-7%	21.6%	-1.4%	23.7%
St. Louis County	222	229	224	217	-19%	3.2%	-2.2%	-3.4%
St. Louis City	311	372	365	488	-23%	19.6%	-1.9%	33.3%
Metro	824	955	938	1,138	-17%	15.9%	-1.8%	21.0%
First Class	3,444	3,704	3,491	3,021	7%	7.5%	-5.8%	-13.7%
Rural	2,168	2,312	1,854	1,640	8%	6.6%	-19.8%	-11.8%
Total	6436	6,971	6,283	5,799	4%	8.3%	-9.9%	-8.0%

(LS70A)

While overall there is a decline in requests, the metro counties as a group are seeing a large increase in requests in both felony class groups.

**Sentencing Assessment Requests: 2005-2008 (as of December 31)**

**Felony A, B, and Unclassified Offenses**

Circuits	PSI/SAR Requests				Percent change from previous year			
	2005	2006	2007	2008	2005	2006	2007	2008
Jackson County	164	179	171	230	-5%	9.1%	-4.5%	34.1%
St. Louis County	104	105	115	106	1%	1.0%	9.5%	-8.1%
St. Louis City	134	139	139	197	-18%	3.7%	0.0%	41.3%
Metro	402	423	425	533	-8%	5.2%	0.5%	25.1%
First Class	628	686	718	670	24%	9.2%	4.7%	-6.9%
Rural	528	490	441	421	12%	-7.2%	-10.0%	-4.8%
Total	1558	1,599	1,584	1,624	10%	2.6%	-0.9%	2.2%

**Sentencing Assessment Requests: 2005-2008 (as of December 31)**

**Felony C and D Offenses**

Circuits	PSI/SAR Requests				Percent change from previous year			
	2005	2006	2007	2008	2005	2006	2007	2008
Jackson County	127	175	178	203	-9%	37.8%	1.7%	13.7%
St. Louis County	118	124	109	111	-31%	5.1%	-12.1%	1.6%
St. Louis City	177	233	226	291	-27%	31.6%	-3.0%	28.4%
Metro	422	532	513	605	-24%	26.1%	-3.6%	17.6%
First Class	2,816	3,018	2,773	2,351	4%	7.2%	-8.1%	-15.4%
Rural	1,640	1,822	1,413	1,219	7%	11.1%	-22.4%	-14.0%
Total	4878	5,372	4,699	4,175	2%	10.1%	-12.5%	-11.4%

(LS70A)

Sex and Child Abuse, Violent offenses continue to see an increase in SAR requests.

**Sentencing Assessment Requests: 2005-2008 (December 31)**

Circuits	PSI/SAR Requests				Percent change from previous year			
	2005	2006	2007	2008	2005	2006	2007	2008
<i>Sex and Child Abuse</i>								
A, B, and Unclassified	227	207	225	250	28%	-8.8%	8.7%	10.8%
C and D	290	289	265	262	7%	-0.3%	-8.3%	-1.4%
Total	517	496	490	512	15%	-4.1%	-1.2%	4.2%
<i>Violent</i>								
A, B, and Unclassified	424	455	444	526	12%	7.3%	-2.4%	18.1%
C and D	428	462	455	419	9%	7.9%	-1.5%	-8.2%
Total	852	917	899	945	11%	7.6%	-2.0%	4.8%
<i>Non-Violent</i>								
A, B, and Unclassified	115	129	139	173	-10%	12.2%	7.8%	24.1%
C and D	2160	2,304	1,973	1,771	-2%	6.7%	-14.4%	-10.5%
Total	2275	2,433	2,112	1,944	-2%	6.9%	-13.2%	-8.2%
<i>Drug</i>								
A, B, and Unclassified	792	783	716	630	8%	-1.1%	-8.6%	-12.3%
C and D	1531	1,689	1,366	1,245	6%	10.3%	-19.1%	-9.1%
Total	2323	2,472	2,082	1,875	7%	6.4%	-15.8%	-10.2%
<i>DWI</i>								
A, B, and Unclassified	0	25	60	45	0%	0.0%	140.0%	-25.2%
C and D	469	628	640	478	-1%	33.9%	1.9%	-25.5%
Total	469	653	700	523	-1%	39.2%	7.2%	-25.5%
<i>All Offense Groups</i>								
A, B, and Unclassified	1558	1,599	1,584	1,624	10%	2.6%	-0.9%	2.2%
C and D	4878	5,372	4,699	4,175	2%	10.1%	-12.5%	-11.4%
Total	6436	6,971	6,283	5,799	4%	8.3%	-9.9%	-8.0%

(LS70B)

Some counties typically request a pre-sentence investigation while other counties rarely request a pre-sentence investigation. The following table compares the number of court requested investigations to the number of new sentences received by the DOC in 2008

Counties that usually request an investigation (70% of the time or more) include Clark and Lewis. The metro areas, Jackson County (16.7%) and the City of St. Louis (15.0%) are slightly over the statewide median of 14.7%. St. Louis County is well under the median with 7.1% requests.

**Utilization of Sentencing Assessments For New Sentencing**

County	CY08 New Felony Sentences	CY08 P&P Assessment Request	Percent of New Felony Sentences	County	CY08 New Felony Sentences	CY08 P&P Assessment Request	Percent of New Felony Sentences
Adair	122	36	29.5%	Livingston	139	83	59.7%
Andrew	34	16	47.1%	Macon	65	11	16.9%
Atchison	19	12	63.2%	Madison	66	6	9.1%
Audrain	214	19	8.9%	Maries	31	2	6.5%
Barry	170	22	12.9%	Marion	140	16	11.4%
Barton	78	12	15.4%	McDonald	139	7	5.0%
Bates	93	13	14.0%	Mercer	18	9	50.0%
Benton	71	10	14.1%	Miller	184	5	2.7%
Bollinger	20	10	50.0%	Mississippi	135	19	14.1%
Boone	696	377	54.2%	Moniteau	53	9	17.0%
Buchanan	583	366	62.8%	Monroe	38	3	7.9%
Butler	216	27	12.5%	Montgomery	130	11	8.5%
Caldwell	51	21	41.2%	Morgan	100	10	10.0%
Callaway	161	96	59.6%	New Madrid	225	17	7.6%
Camden	255	15	5.9%	Newton	192	47	24.5%
Cape Girardeau	338	127	37.6%	Nodaway	70	45	64.3%
Carroll	40	2	5.0%	Oregon	30	5	16.7%
Carter	26	1	3.8%	Osage	19	7	36.8%
Cass	273	34	12.5%	Ozark	34	6	17.6%
Cedar	72	5	6.9%	Pemiscot	233	49	21.0%
Chariton	34	6	17.6%	Perry	112	55	49.1%
Christian	338	88	26.0%	Pettis	200	35	17.5%
Clark	30	26	86.7%	Phelps	264	32	12.1%
Clay	457	214	46.8%	Pike	126	9	7.1%
Clinton	66	21	31.8%	Platte	204	41	20.1%
Cole	417	164	39.3%	Polk	146	12	8.2%
Cooper	118	3	2.5%	Pulaski	154	14	9.1%
Crawford	200	42	21.0%	Putnam	25	16	64.0%
Dade	31	3	9.7%	Ralls	21	2	9.5%
Dallas	101	10	9.9%	Randolph	282	62	22.0%
Davies	77	40	51.9%	Ray	145	8	5.5%
Dekalb	74	18	24.3%	Reynolds	18	1	5.6%
Dent	74	12	16.2%	Ripley	67	8	11.9%
Douglas	39	-	0.0%	Saline	122	24	19.7%
Dunklin	415	41	9.9%	Schuylerville	11	5	45.5%
Franklin	451	146	32.4%	Scotland	21	13	61.9%
Gasconade	59	20	33.9%	Scott	310	28	9.0%
Gentry	30	14	46.7%	Shannon	52	3	5.8%
Greene	1,280	406	31.7%	Shelby	25	2	8.0%
Grundy	49	15	30.6%	St. Charles	1,160	222	19.1%
Harrison	43	20	46.5%	St. Clair	35	3	8.6%
Henry	137	6	4.4%	St. Genevieve	91	2	2.2%
Hickory	32	2	6.3%	St. Francois	345	40	11.6%
Holt	34	21	61.8%	St. Louis City	3,255	488	15.0%
Howard	46	13	28.3%	St. Louis Cnty	3,036	217	7.1%
Howell	133	9	6.8%	Stoddard	215	46	21.4%
Iron	57	9	15.8%	Stone	174	15	8.6%
Jackson	2,600	433	16.7%	Sullivan	44	3	6.8%
Jasper	381	229	60.1%	Taney	334	112	33.5%
Jefferson	693	401	57.9%	Texas	95	5	5.3%
Johnson	179	34	19.0%	Vernon	75	8	10.7%
Knox	11	1	9.1%	Warren	236	14	5.9%
Laclede	175	15	8.6%	Washington	147	13	8.8%
Lafayette	300	44	14.7%	Wayne	69	2	2.9%
Lawrence	216	27	12.5%	Webster	83	3	3.6%
Lewis	65	49	75.4%	Worth	7	2	28.6%
Lincoln	283	33	11.7%	Wright	114	2	1.8%
Lin	46	2	4.3%	Total	27,164	5,792	21.3%

(LS62)

Looking only at counties with 100 or more new felony sentences in CY 2008, the following table compares the percentage of new felony sentences with a requested assessment in CY 2008 to the percentage requested in CY 2007.

Jackson County had a 2.3% increase in assessments requests along with Greene County with a 2.2% increase. At the other end of the spectrum, assessments requests for Jefferson County dropped by 30.4%. The statewide percentage of sentences with an assessment in 2008 declined by 2.2% compared to 2007. One reason for changes in the number of SAR requests is often a change in the circuit court judge.

**Change in Percent of Utilization of Assessments For New Sentencing in 2008 from 2007**

**Counties with 100 or More New Felony Sentences in 2008**

**Sorted by Change in Percentage**

CY08 New Felony Sentences	County	Percentage of Sentences Requesting Sentencing Assessment		Change in Percentage	CY08 New Felony Sentences	County	Percentage of Sentences Requesting Sentencing Assessment		Change in Percentage
		CY07	CY08				CY07	CY08	
112	Perry	40.0%	49.1%	9.1%	137	Henry	6.1%	4.4%	-1.8%
381	Jasper	53.1%	60.1%	7.0%	310	Scott	11.3%	9.0%	-2.3%
200	Pettis	11.2%	17.5%	6.3%	100	Morgan	12.4%	10.0%	-2.4%
204	Platte	14.5%	20.1%	5.6%	236	Warren	9.7%	5.9%	-3.8%
126	Pike	1.9%	7.1%	5.2%	139	Mcdonald	8.8%	5.0%	-3.8%
122	Saline	14.6%	19.7%	5.1%	255	Camden	9.9%	5.9%	-4.0%
161	Callaway	54.7%	59.6%	4.9%	214	Audrain	13.1%	8.9%	-4.3%
130	Montgomery	4.1%	8.5%	4.3%	300	Lafayette	19.0%	14.7%	-4.4%
174	Stone	5.3%	8.6%	3.3%	264	Phelps	16.7%	12.1%	-4.5%
2,600	Jackson	14.4%	16.7%	2.3%	334	Taney	38.4%	33.5%	-4.9%
1,280	Greene	29.6%	31.7%	2.2%	184	Miller	7.8%	2.7%	-5.1%
215	Stoddard	19.4%	21.4%	2.0%	114	Wright	6.8%	1.8%	-5.1%
200	Crawford	19.0%	21.0%	2.0%	175	Laclede	13.7%	8.6%	-5.1%
3,255	St. Louis City	13.5%	15.0%	1.5%	101	Dallas	15.3%	9.9%	-5.4%
415	Dunklin	8.5%	9.9%	1.4%	139	Livingston	65.2%	59.7%	-5.5%
216	Lawrence	11.7%	12.5%	0.8%	417	Cole	45.1%	39.3%	-5.8%
696	Boone	53.5%	54.2%	0.7%	273	Cass	18.5%	12.5%	-6.0%
146	Polk	7.5%	8.2%	0.7%	338	Cape Girardeau	44.5%	37.6%	-6.9%
192	Newton	24.0%	24.5%	0.5%	583	Buchanan	70.9%	62.8%	-8.2%
233	Pemiscot	20.5%	21.0%	0.5%	140	Marion	19.7%	11.4%	-8.3%
1,160	St. Charles	18.9%	19.1%	0.2%	135	Mississippi	23.1%	14.1%	-9.0%
282	Randolph	21.8%	22.0%	0.2%	118	Cooper	12.0%	2.5%	-9.5%
283	Lincoln	11.6%	11.7%	0.0%	179	Johnson	28.9%	19.0%	-10.0%
170	Barry	13.0%	12.9%	0.0%	345	St. Francois	22.5%	11.6%	-10.9%
154	Pulaski	9.2%	9.1%	-0.1%	147	Washington	20.1%	8.8%	-11.3%
3,036	St. Louis Cnty	7.5%	7.1%	-0.4%	122	Adair	43.3%	29.5%	-13.8%
225	New Madrid	8.5%	7.6%	-1.0%	338	Christian	42.5%	26.0%	-16.5%
145	Ray	6.8%	5.5%	-1.3%	451	Franklin	48.8%	32.4%	-16.5%
133	Howell	8.2%	6.8%	-1.4%	457	Clay	65.9%	46.8%	-19.0%
216	Butler	14.0%	12.5%	-1.5%	693	Jefferson	88.2%	57.9%	-30.4%
		27,164		Total	23.5%		21.3%	-2.2%	

(LS62)

#### **4. Investigations by type of Offender**

The number of investigation request is similar across the board except for probation offenders. Offenders on probation with new sentences had a lower percent of investigation requests. This corresponds to the drop in SAR request for felony class C and D offenses. Drug Court, deferred prosecution investigations are included in P&P investigations.

##### **New Sentenced in CY2008 and Court Requests for Investigations**

Status of Offender	Felony Sentences	P&P Investigations	Percent Requested
Drug Court	1,165	372	31.9%
New Court Commitment	5,692	1,783	31.3%
Probation	17,711	3,608	20.4%
Parole	2,596	930	35.8%
<b>Total</b>	<b>27,164</b>	<b>6,693</b>	<b>24.6%</b>

(LS62)

#### **5. Court Compliance with the Recommended Presumptive Sentence**

The recommended sentences in the sentencing assessment reports have been updated with the actual sentences of offenders received by the DOC. Because there may be a lag of two or more months from requesting an investigation to the receipt of the offender by the DOC the number of SARs matched with the actual sentences is lower than the number of completed SARs. At present there are 14,037 SARs with a new sentence.

The overall picture indicates that the actual sentencing is sometimes more severe than the recommended presumptive sentence. For all offenses there are 3.6% fewer probation/CSS sentences than recommended and 2.7% more prison sentences than recommended.

##### **Presumptive Recommended Sentence and Actual Sentence**

Disposition	Recommended Presumptive Sentence		Actual Sentence		Difference %
	#	%	#	%	
Probation or CSS	9,927	70.7%	9,421	67.1%	-3.6%
Shk/Trt	1,772	12.6%	1,899	13.5%	0.9%
Prison	2,338	16.7%	2,717	19.4%	2.7%
<b>Total</b>	<b>14,037</b>	<b>100.0%</b>	<b>14,037</b>	<b>100.0%</b>	<b>0.0%</b>

(LS49)

The analysis by offense group indicates that violent and sex offenses are more likely to receive a more severe sentence than the recommended presumptive sentence.

- Violent offenses: Prison sentences are 6.3% higher
- Sex offenses: Prison sentences are 7.5% higher
- For Drugs, DWI and Non-violent offenses the differences are from 3.9% to -4.2%.

All offense groups except DWI saw a reduction in the percentage of difference with the presumptive recommended sentence of prison.

#### **Presumptive Recommended Sentence and Actual Sentence**

##### **By Offense Group**

	Recommended Presumptive Sentence	Actual Sentence	Difference
<i><b>Violent</b></i>			
Probation or CSS	53.0%	43.0%	-9.9%
120day Shock	10.6%	14.2%	3.6%
Prison	36.4%	42.8%	6.3%
Total	100.0%	100.0%	0.0%
<i><b>Sex &amp; Child Abuse</b></i>			
Probation or CSS	48.9%	42.3%	-6.6%
120day Shock	6.1%	5.2%	-0.9%
Prison	45.0%	52.5%	7.5%
Total	100.0%	100.0%	0.0%
<i><b>Non-Violent</b></i>			
Probation or CSS	78.9%	74.5%	-4.4%
120day Shock	10.2%	10.8%	0.5%
Prison	10.9%	14.7%	3.9%
Total	100.0%	100.0%	0.0%
<i><b>Drug</b></i>			
Probation or CSS	76.0%	74.9%	-1.2%
120day Shock	14.3%	13.8%	-0.5%
Prison	9.7%	11.4%	1.7%
Total	100.0%	100.0%	0.0%
<i><b>DWI</b></i>			
Probation or CSS	59.3%	58.6%	-0.7%
120day Shock	21.0%	25.8%	4.8%
Prison	19.7%	15.6%	-4.2%
Total	100.0%	100.0%	0.0%

(LS50)

#### **6. Compliance and the Recommended Mitigating, Presumptive and Aggravating Range**

The recommended sentence is more than the Presumptive sentence. In the SAR the courts are also given a mitigating and an aggravating sentence. The following analysis compares the actual sentence to the range from Mitigating to Aggravating. The decision whether an actual sentence is within the range or outside the range is based upon the disposition when the recommended sentence was probation, CSS or Shock/Treatment. If the recommended sentence was a prison sentence then the compliance decision is based upon whether the actual prison sentence was within or outside the recommended sentence range.

The overall picture since implementation in 2005 is that 83.6% of sentences are within the Mitigating to Aggravating range. There were 4.8% below the mitigating sentence and 11.6% above the aggravating sentence. When the actual sentence was prison the compliance percent is much lower (43.7%).

#### ACTUAL SENTENCE COMPARED TO THE RECOMMENDED SENTENCE RANGE

Actual Sentence	Below Mitigating		Within the range of Mitigating to Aggravating		Above Aggravating		Total	
	#	%	#	%	#	%	#	%
Prison	87	3.2%	1190	43.7%	1447	53.1%	2724	100.0%
120day Shock	182	9.6%	1531	80.5%	190	10.0%	1903	100.0%
Probation/CSS	408	4.3%	9075	95.7%	0	0.0%	9483	100.0%
Total	677	4.8%	11796	83.6%	1637	11.6%	14110	100.0%

(LS51)

The Recommended Sentencing matrix was last updated in October 15, 2007 for the 2007-2008 User Guide. SARS requested and sentenced since the implementation of the 2007-2008 User Guide, 87.3% of sentences are within the Mitigating to Aggravating range. When the actual sentence was prison the compliance percent still much lower but higher at 48.1%.

#### ACTUAL SENTENCE COMPARED TO THE RECOMMENDED SENTENCE RANGE

(Only for User Guide 2007-2008 - October 15, 2007 to present)

Actual Sentence	Below Mitigating		Within the range of Mitigating to Aggravating		Above Aggravating		Total	
	#	%	#	%	#	%	#	%
Prison	14	2.4%	278	48.1%	286	49.5%	578	100.0%
120day Shock	33	10.9%	241	79.5%	29	9.6%	303	100.0%
Probation/CSS	173	5.2%	3153	94.8%	0	0.0%	3326	100.0%
Total	220	5.2%	3672	87.3%	315	7.5%	4207	100.0%

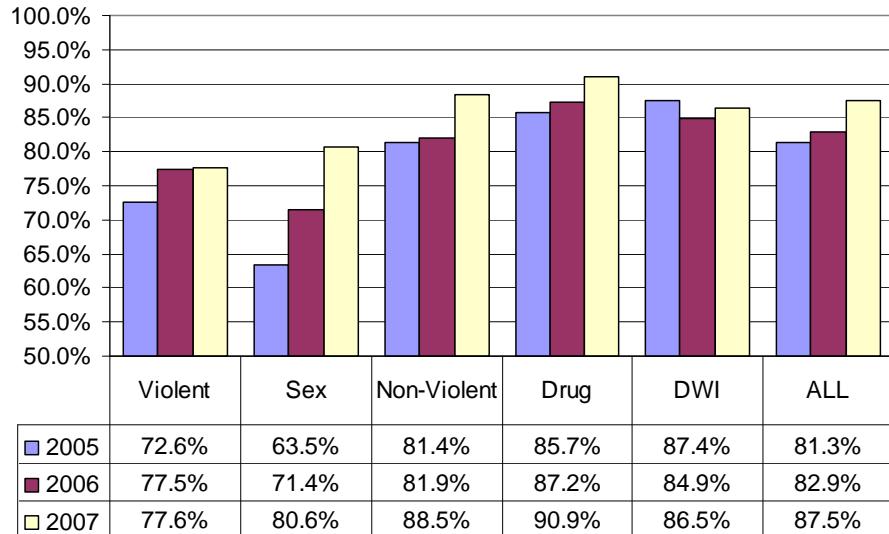
(LS51B)

#### 7. Compliance Rates Since 2005

In the first year of the recommended sentences in 2005, 81.3% of the sentences for which the courts requested a SAR were within the recommended sentence range. In November 2006 the Commission issued a new User Guide that amended some recommended sentences and in 2007 compliance rate increased to 82.9%. In 2008, without any changes in the recommended sentencing the compliance rate based upon the sentencing for which SARs have been requested has increased to 87.5%.

Across all offense groups, the percent within the Recommended Sentences range has increased. A particular note in the chart on the bottom of page 9 is the compliance within the Recommended Sentence range for the sex offense group has increased from 63.5% to 80.6%.

**Compliance by Offense Group**  
**2005 vs. 2006 vs. 2007/2008**  
**Recommended Sentencing Matrix**



(LS66B)

**Compliance by Offense Group for 2005 vs. 2006 vs. 2007/2008 Recommended Sentencing Matrices**

Offense Group	Below		Within		Above		
	#	%	#	%	#	%	
<b>Violent</b>	2005	48	6.9%	505	72.6%	143	20.5%
	2006	33	5.2%	495	77.5%	111	17.4%
	2007	28	5.7%	380	77.6%	82	16.7%
	<b>Total</b>	<b>109</b>	<b>6.0%</b>	<b>1380</b>	<b>75.6%</b>	<b>336</b>	<b>18.4%</b>
<b>Sex</b>	2005	7	2.2%	198	63.5%	107	34.3%
	2006	8	3.0%	190	71.4%	68	25.6%
	2007	12	5.3%	183	80.6%	32	14.1%
	<b>Total</b>	<b>27</b>	<b>3.4%</b>	<b>571</b>	<b>70.9%</b>	<b>207</b>	<b>25.7%</b>
<b>Non-Violent</b>	2005	98	5.1%	1564	81.4%	259	13.5%
	2006	61	4.1%	1227	81.9%	210	14.0%
	2007	73	4.9%	1306	88.5%	97	6.6%
	<b>Total</b>	<b>232</b>	<b>4.7%</b>	<b>4097</b>	<b>83.7%</b>	<b>566</b>	<b>11.6%</b>
<b>Drug</b>	2005	87	4.5%	1674	85.7%	193	9.9%
	2006	71	4.4%	1394	87.2%	133	8.3%
	2007	74	4.7%	1431	90.9%	69	4.4%
	<b>Total</b>	<b>232</b>	<b>4.5%</b>	<b>4499</b>	<b>87.8%</b>	<b>395</b>	<b>7.7%</b>
<b>DWI</b>	2005	23	4.7%	431	87.4%	39	7.9%
	2006	20	3.8%	443	84.9%	59	11.3%
	2007	23	5.3%	372	86.5%	35	8.1%
	<b>Total</b>	<b>66</b>	<b>4.6%</b>	<b>1246</b>	<b>86.2%</b>	<b>133</b>	<b>9.2%</b>
<b>ALL</b>	2005	263	4.9%	4372	81.3%	741	13.8%
	2006	193	4.3%	3749	82.9%	581	12.8%
	2007	210	5.0%	3672	87.5%	315	7.5%
	<b>Total</b>	<b>666</b>	<b>4.7%</b>	<b>11793</b>	<b>83.7%</b>	<b>1637</b>	<b>11.6%</b>

(LS66B)

## 8. Compliance and the Prior Criminal History Level

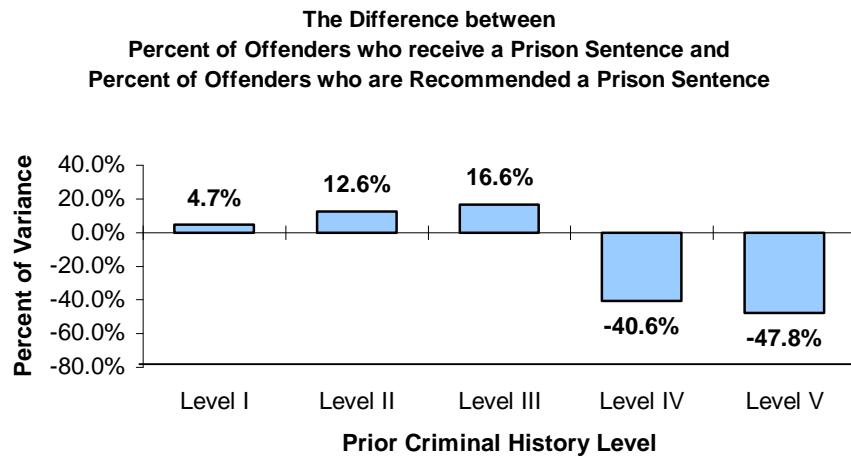
The recommended sentences increase the severity of the sentence with an increase of the prior criminal history. The SAR data indicates that actual sentencing does reflect an increase in the prior criminal history, particularly the percent prison disposition.

**ACTUAL SENTENCES BY OFFENSE GROUP AND PRIOR CRIMINAL HISTORY**  
**Completed SARs and Offenders received by the DOC, May 2005 to December 2008**

Offense Group	Prior Criminal History				
	Level 1 No felonies & no more than 3 misds	Level 2 No prison & 1 or 2 felonies	Level 3 One prison or 3 felonies	Level 4 Two prison or 4 felonies	Level 5 3 or more prison or 5 or more felonies
<i>Violent</i>					
Percent of PCHL	60.6%	16.1%	14.5%	4.2%	4.6%
Percent Prison Disposition	31.7%	45.2%	66.4%	73.7%	77.4%
Average Sentence	11.0	11.9	12.1	14.5	16.2
<i>Sex &amp; Child Abuse</i>					
Percent of PCHL	67.5%	15.3%	10.5%	4.6%	2.1%
Percent Prison Disposition	44.7%	58.5%	72.6%	86.5%	82.4%
Average Sentence	11.1	12.3	14.6	8.8	22.0
<i>NonViolent</i>					
Percent of PCHL	55.9%	18.5%	12.7%	6.1%	6.8%
Percent Prison Disposition	5.0%	13.5%	27.1%	43.0%	49.4%
Average Sentence	4.2	4.0	4.2	4.5	5.2
<i>Drug</i>					
Percent of PCHL	56.1%	19.9%	14.5%	4.9%	4.6%
Percent Prison Disposition	2.8%	11.5%	25.3%	36.3%	44.8%
Average Sentence	6.9	6.2	6.0	6.9	7.4
<i>DWI</i>					
Percent of PCHL	43.3%	27.4%	17.9%	5.7%	5.6%
Percent Prison Disposition	4.0%	11.4%	30.5%	41.0%	51.9%
Average Sentence	3.5	4.6	4.7	5.5	4.9
<i>All Offense Groups</i>					
Percent of PCHL	56.0%	19.4%	14.0%	5.3%	5.3%
Percent Prison Disposition	10.6%	17.8%	34.0%	45.8%	52.2%
Average Sentence	9.3	7.9	7.8	7.3	8.2

(LS53)

Compliance, however, varies significantly by the prior criminal history level. Offenders with many prior convictions and incarcerations are likely to receive a more lenient sentence than the recommended presumptive sentence. Offenders with a level 3 history are most likely to be sentenced more severely than the presumptive recommended sentence.



**Difference Between Presumptive Recommended Sentence and Actual Sentence  
By Criminal History Level**

Sentence Type by Level	Recommended Presumptive Sentence		Actual Sentence		Difference in %
	# SARs	%	# SARs	%	
<i><u>Level I</u></i>					
Probation or CSS	7289	92.8%	6407	81.5%	-11.2%
120day Shock	104	1.3%	617	7.9%	6.5%
Prison	464	5.9%	833	10.6%	4.7%
Total	7857	100.0%	7857	100.0%	0.0%
<i><u>Level II</u></i>					
Probation or CSS	2417	88.8%	1730	63.5%	-25.2%
120day Shock	163	6.0%	507	18.6%	12.6%
Prison	143	5.3%	486	17.8%	12.6%
Total	2723	100.0%	2723	100.0%	0.0%
<i><u>Level III</u></i>					
Probation or CSS	221	11.2%	882	44.9%	33.6%
120day Shock	1403	71.4%	415	21.1%	-50.3%
Prison	342	17.4%	669	34.0%	16.6%
Total	1966	100.0%	1966	100.0%	0.0%
<i><u>Level IV</u></i>					
Probation or CSS	0	0.0%	216	29.0%	29.0%
120day Shock	102	13.7%	189	25.3%	11.7%
Prison	644	86.3%	341	45.7%	-40.6%
Total	746	100.0%	746	100.0%	0.0%
<i><u>Level V</u></i>					
Probation or CSS	0	0.0%	185	24.9%	24.9%
120day Shock	0	0.0%	171	23.0%	23.0%
Prison	744	100.0%	388	52.2%	-47.8%
Total	744	100.0%	744	100.0%	0.0%

(LS69)

## 9. Compliance By Sentencing County

Although the metro areas have a lower compliance than the first class counties and the rural counties, all the metro areas compliance are continuing to increase. Jackson County and St. Louis City, with an increase in SAR request, are sentencing above range has fallen below 10%.

### ACTUAL SENTENCE COMPARED TO THE RECOMMENDED SENTENCE RANGE BY REGIONS

Circuits	Below Mitigating		Within the range of Mitigating to Aggravating		Above Aggravating		Total	
	#	%	#	%	#	%	#	%
Jackson County	56	9.6%	472	80.8%	56	9.6%	584	100.0%
St. Louis County	28	5.5%	400	78.3%	83	16.2%	511	100.0%
St. Louis City	73	12.0%	478	78.7%	56	9.2%	607	100.0%
Metro	157	9.2%	1350	79.3%	195	11.5%	1702	100.0%
First Class	338	4.1%	6930	84.7%	910	11.1%	8178	100.0%
Rural	178	4.3%	3450	83.0%	529	12.7%	4157	100.0%
Total	673	4.8%	11730	83.6%	1634	11.6%	14037	100.0%

Circuits by Region:

Metro: 16, 21, 22

First Class: 5, 6, 7, 11, 13, 17, 19, 20, 23, 26, 29, 31, 32

Rural: 1, 2, 3, 4, 8, 9, 10, 12, 14, 15, 18, 24, 25, 27, 28, 30, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45  
(LS59)

## 10. Plea Agreements

Plea agreements are made in 47% of sentencing for which SARs have been requested. The compliance rate is higher for the cases when there is a plea agreement.

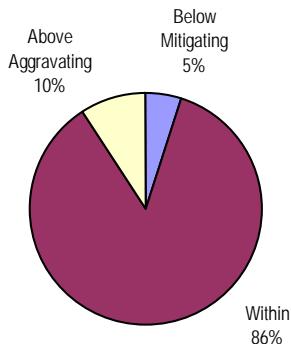
### Actual Sentence compared to the Recommended Sentence

SARs completed May 2005 to December, 2008

Plea Agreement	Below Mitigating	Within	Above Aggravating	Total	Percent
Yes	301 4.9%	5326 86.1%	561 9.1%	6188	47%
No or Not Known	335 4.7%	5729 80.8%	1022 14.4%	7086	53%
All	636 4.8%	11055 83.3%	1583 11.9%	13274	100%

(LS63)

**Plea Agreement: Yes**



**Plea Agreement: No or Not Known**

